
TO: GENERAL COMMITTEE

SUBJECT: SALE OF CITY OWNED LAND - 223 BAYFIELD STREET

WARD: 2

PREPARED BY AND KEY CONTACT: A. MILLS, MANAGER OF LEGAL SERVICES, EXTENSION #5051

SUBMITTED BY: I. PETERS, DIRECTOR OF LEGAL SERVICES

CHIEF ADMINISTRATIVE OFFICER APPROVAL: M. PROWSE, CHIEF ADMINISTRATIVE OFFICER

RECOMMENDED MOTION

1. That the property known municipally as 223 Bayfield Street, Barrie, to be legally described by reference plan and deposited in the Simcoe County Land Registry Office (the "Subject Property") as represented in Appendix "A" of Staff Report LGL008-21, be sold to Hillcorp Investment and Development Inc. (the "Purchaser") in accordance with the terms and conditions set out in the Agreement of Purchase and Sale (the "APS") attached as Appendix "B" of Staff Report LGL008-21.
2. That the Corporation of the City of Barrie (the "City") remove its condition on Council approval contained within the APS and proceed to complete the sale process.
3. That the City Clerk be authorized to execute all associated and required documents necessary to remove the condition of sale or amend any term contained in the APS on the recommendation of and in a form approved by the Director of Legal Services.
4. That the proceeds from the sale be transferred to the Tax Capital Reserve.

PURPOSE & BACKGROUND

Report Overview

5. The purpose of this staff report is to recommend the sale of the Subject Property in accordance with the terms and conditions contained in the APS.
6. The Subject Property was purchased by the City in 2002 to allow for the widening of Bayfield Street. All buildings and improvements were removed in support of the road construction project.
7. The Purchaser owns the adjoining lands, known municipally as 219 Bayfield Street and is seeking to acquire and merge the Subject Property with their existing holdings to increase the overall site area and facilitate development of their intended use being a real estate office.
8. On March 22, 2021, City Council adopted motion 21-G-055 regarding SURPLUSSING OF CITY OWNED PROPERTY – 223 BAYFIELD STREET (WARD 2) as follows:
 1. That the property known municipally as 223 Bayfield Street, Barrie, outlined in Appendix "A" to Staff Report LGL003-21 (the "Subject Property") be declared surplus to the needs of The Corporation of the City of Barrie (the "City").

2. That the Subject Property be offered for sale to Hillcorp Investment and Development Inc. (the "Purchaser") to facilitate development in conjunction with the adjacent property owned by the Purchaser.
3. That the Purchaser be permitted to submit a Zoning By-law Amendment application for the Subject Property and include it in development applications.
4. That the City Clerk be authorized to execute an Agreement of Purchase and Sale ("APS") conditional upon future Council approval and in a form approved by the Director of Legal Services. (LGL003- 21) (File: L17-14)

ANALYSIS

9. The notice provision requirements of the Sale of Property By-law 95-104 have been complied with by way of publishing a notice in the Barrie Advance on June 10, 2021.
10. The Subject Property has value in contribution to adjacent lands but cannot be independently developed due to its reduced size after accounting for road widenings and a daylighting triangle that are being retained by the City.
11. An appraisal was completed by Andrew, Thompson & Associates which concluded the current market value for the Subject Property was \$55/ft². This equates to a purchase price of \$169,950.00 based on the area of the Subject Property being 3,090 ft².
12. A reference plan to legally describe the Subject Property and confirm its area will be obtained by the Purchaser at its expense and provided to the City prior to the closing of the sale transaction.
13. In the event the reference plan identifies the Subject Property as having an area that differs from the estimate being 3,090 ft², the purchase price shall be amended to reflect the actual area.
14. Property to facilitate future road widenings along the Grove Street and Bayfield Street frontages as well as an expanded daylighting triangle shall be retained by the City as indicated in Appendix "A".
15. Disposition of the Subject Property and its development by the Purchaser will create a revenue source for the City while reducing liability and maintenance costs on the unutilized vacant land.

ENVIRONMENTAL AND CLIMATE CHANGE IMPACT MATTERS

16. The Purchaser has agreed to buying the Subject Property on an "as is where is" basis that is absent of any representations or warranties made by the City with respect to soil or environmental conditions.

ALTERNATIVES

17. The following alternative is available for consideration by General Committee:

Alternative #1 General Committee could choose not to sell the Subject Property and retain ownership.

This alternative is not recommended as pursuant to an internal circulation and previous Council direction, the Subject Property is not required for City use.

FINANCIAL

18. The Purchaser shall pay all of the City's costs associated with the transfer of the Subject Property including advertising and legal fees.
19. The proceeds from the sale will be transferred to the Tax Capital Reserve.

LINKAGE TO 2018–2022 STRATEGIC PLAN

20. The recommendation(s) included in this Staff Report support the following goal identified in the 2018-2022 Strategic Plan:
 - ☒ Growing Our Economy
21. The sale of the Subject Property will provide local jobs through the associated development of the merged lands and support a growing small business.

APPENDIX "A"

223 Bayfield Street




GIS Branch: 1/19/2021

223 Bayfield St

APPENDIX "B"

Agreement of Purchase & Sale



AGREEMENT OF PURCHASE AND SALE
(FOR USE IN THE PROVINCE OF ONTARIO)

BUYER: Hillcorp Investment & Development Inc. agrees to purchase from
(Full legal names of all Buyers)

SELLER: The Corporation of the City of Barrie the following
(Full legal names of all Sellers)

REAL PROPERTY:

Address: 223 Bayfield Street fronting on the East side of Bayfield Street
in the City of Barrie

and having a frontage of see Schedule "B" more or less by a depth of see Schedule "B" more or less, legally described as
Part of PIN 58815-0108(LT), to be further described on a reference plan to be deposited in the Simcoe County
Land Registry Office prior to closing as represented in Schedule "B" ("the Property").
(Legal description of land including easements not described elsewhere)

PURCHASE PRICE: One Hundred & Sixty Nine Thousand Nine Hundred & Fifty Dollars (CDN\$ 169,950.00)

DEPOSIT: Buyer submits (Upon Acceptance) 1.00 Dollars (CDN\$ 1.00)
(Herewith/Upon acceptance)

By negotiable cheque payable to the Seller to be held in trust without interest pending completion or other termination of this Agreement and to be credited toward the Purchase Price on completion. Buyer agrees to pay the balance as follows:



On closing, the balance of the purchase price, subject to the adjustments described herein, by cash or certified cheque to the Seller or as the Seller may direct.

SCHEDULE(S) "A" & "B" attached hereto form(s) part of this Agreement.

- CHATTELS INCLUDED: NONE
- FIXTURES EXCLUDED: NONE
- RENTAL ITEMS: The following equipment is rented and not included in the Purchase Price. The Buyer agrees to assume the rental contract(s), if assumable: N/A
- IRREVOCABILITY: This Offer shall be irrevocable by Buyer until 4:00 p.m. on the 4th day of June, 2021.
(Seller/Buyer)
after which time, if not accepted, the Offer shall be null and void and the deposit shall be returned to the Buyer in full without interest.
- COMPLETION DATE: This Agreement shall be completed by no later than 4:00 p.m. on the 10th day of June, 2021.
Upon completion, vacant possession of the Property shall be given to the Buyer unless otherwise provided for in this Agreement. (SEE SCHEDULE "A")
- FAX No. (705) 739-4243 (For delivery of notices to Seller) FAX No. (For delivery of notices to Buyer)
- HST: If this transaction is subject to Harmonized Sales Tax (H.S.T.), then such tax shall be in addition to the Purchase Price.
(included in/n addition to)

If this transaction is not subject to H.S.T., Seller agrees to certify, on or before closing that the transaction is not subject to H.S.T.

- TITLE SEARCH: Buyer shall be allowed until 6:00 p.m. on the 10th day of June, 2021 prior to completion of this transaction to examine the title to the Property at his own expense and until the earlier of: (i) thirty days from the later of the Requisition Date or the date on which the conditions in this Agreement are fulfilled or otherwise waived or, (ii) five days prior to completion, to satisfy himself that there are no outstanding work orders or deficiency notices affecting the Property, that its present use (NA) may be lawfully continued and that the principal building may be insured against risk of fire. Seller hereby consents to the municipality other governmental agencies releasing to Buyer details of all outstanding work orders affecting the Property, and Seller agrees to execute and deliver such further authorizations in this regard as Buyer may reasonably require.
- FUTURE USE: Seller and Buyer agree that there is no representation or warranty of any kind that the future intended use of the Property by Buyer is or will be lawful except as may be specifically provided for in this Agreement.
- TITLE: Provided that the title to the Property is good and free from all registered restrictions, charges, liens, and encumbrances except as otherwise specifically provided in this Agreement and save and except for (a) any registered restrictions or covenants that run with the land providing that such are complied with; (b) any registered municipal agreements and registered agreements with publicly regulated utilities providing such have been complied with, or security has been posted to ensure compliance and completion, as evidenced by a letter from the relevant municipality or regulated utility; (c) any minor easements for the supply of domestic utility or telephone services to the Property or adjacent properties; and (d) any easement for drainage, storm or sanitary sewers, public utility lines, telephone lines, cable television lines or other services which do not materially affect the present use of the Property. If within the specified times referred to in paragraph 8 any valid objection to title or to any outstanding work order or deficiency notice, or to the fact that said present use may not lawfully be continued, or that the principal building may not be insured against risk of fire is made in writing to Seller and which Seller is unable or unwilling to remove, remedy or satisfy or obtain insurance and except against risk of fire in favour of the Buyer and any mortgagee, (with all related costs at the expense of the Seller), and which Buyer will not waive, this Agreement notwithstanding any intermediate acts or negotiations in respect of such objections, shall be at an end and all monies paid shall be returned without interest or deduction and Seller, Listing Broker and Co-operating Broker shall not be liable for any costs or damages. Save as to any valid objection so made by such day and except for any objection going to the root of the title, Buyer shall be conclusively deemed to have accepted Seller's title to the Property.
- CLOSING ARRANGEMENTS: Where each of the Seller and Buyer retain a lawyer to complete the Agreement of Purchase and Sale of the Property, and where the transaction will be completed by electronic registration pursuant to Part 111 of the Land Registration Reform Act, R.S.O. 1990, Chapter L4 and the Electric Registration Act, S.O. 1991, Chapter 44, and any amendments thereto the Seller and Buyer acknowledge and agree that the exchange of closing funds, non-registrable documents and other items (the "Requisite Deliveries") and the release thereof to the Seller and Buyer will (a) not occur at the same time as the registration of the transfer/deed (and other documents intended to be registered in connection with the completion of this transaction) and (b) be subject to conditions whereby the lawyer(s) receiving any of the Requisite Deliveries will be required to hold same in trust and not release same except in accordance with the terms of a document registration agreement between the said lawyers, the form of which is as recommended from time to time by the Law Society of Upper Canada. Unless otherwise agreed to by the lawyers, such exchange of the Requisite Deliveries will occur in the applicable Land Titles Office or such other location agreeable to both lawyers.
- DOCUMENTS AND DISCHARGE: Buyer shall not call for the production of any title deed, abstract, survey or other evidence of title to the Property except such as are in the possession or control of Seller. If required by Buyer, Seller will deliver any sketch or survey of the Property within Seller's control to Buyer as soon as possible and prior to the Requisition Date. If a discharge of any Charge/Mortgage held by a corporation incorporated pursuant to the Trust and Loan Companies Act (Canada), Chartered Bank, Trust Company, Credit Union, Caisse Populaire or Insurance Company and which is not to be assumed by Buyer on completion, is not available in registrable form on completion, Buyer agrees to accept Seller's lawyer's personal undertaking to obtain, out of the closing funds, prepared by the mortgagee setting out the balance required to obtain the discharge, together with a direction executed by Seller directing payment to the mortgagee of the amount required to obtain the discharge out of the balance due on completion.
- INSPECTION: Buyer acknowledges having had the opportunity to inspect the Property and understands that upon acceptance of this Offer there shall be a binding agreement of purchase and sale between Buyer and Seller.

INITIALS OF BUYER(S):  INITIALS OF SELLER(S): 

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APPENDIX "B" cont'd

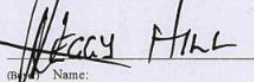
Agreement of Purchase & Sale

14. **INSURANCE:** All buildings on the Property and all other things being purchased shall be and remain until completion at the risk of Seller. Pending completion, Seller shall hold all insurance policies, if any, and the proceeds thereof in trust for the parties as their interests may appear and in the event of substantial damage, Buyer may either terminate this Agreement and have all monies paid returned without interest or deduction or else take the proceeds of any insurance and complete the purchase. No insurance shall be transferred on completion. If Seller is taking back a Charge/Mortgage, or Buyer is assuming a Charge/Mortgage, Buyer shall supply Seller with reasonable evidence of adequate insurance to protect Seller's or other mortgagee's interest on completion.
15. **DOCUMENT PREPARATION:** The Transfer/Deed shall, save for the Land Transfer Tax Affidavit, be prepared in registrable form at the expense of Seller, and any Charge/Mortgage to be given back by the Buyer to Seller at the expense of the Buyer. If requested by Buyer, Seller covenants that the Transfer/Deed to be delivered on completion shall contain the statements contemplated by Section 50 (22) of the Planning Act, R.S.O. 1990.
16. **RESIDENCY:** Buyer shall be credited towards the Purchase Price with the amount, if any, necessary for Buyer to pay to the Minister of National Revenue to satisfy Buyer's liability in respect of tax payable by Seller under the non-residency provisions of the Income Tax Act by reason of this sale. Buyer shall not claim such credit if Seller delivers on completion the prescribed certificate or a statutory declaration that Seller is not then a non-resident of Canada.
17. **ADJUSTMENTS:** Any rents, mortgage interest, realty taxes including local improvement rates and unmetered public or private utility charges and unmetered cost of fuel, as applicable, shall be apportioned and allowed to the day of completion, the day of completion itself be apportioned to Buyer.
18. **TIME LIMITS:** Time shall in all respects be of the essence hereof provided that the time for doing and completing of any matter provided for herein may be extended or abridged by an agreement in writing signed by Seller and Buyer or by their respective lawyers who may be specifically authorized in that regard.
19. **TENDER:** Any tender of documents or money hereunder may be made upon Seller or Buyer or their respective lawyers on the day set for completion. Money may be tendered by bank draft or cheque certified by a Chartered Bank, Trust Company, Province of Ontario Savings Office, Credit Union or Caisse Populaire.
20. **FAMILY LAW ACT:** Seller warrants that spousal consent is not necessary to this transaction under provisions of the Family Law Act, R.S.O. 1990 unless Seller's spouse has executed the consent, hereinafter provided.
21. **UFF:** Seller represents and warrants to Buyer that during the time Seller has owned the Property, Seller has not caused any building on the Property to be insulated with insulation containing urea formaldehyde, and that to the best of Seller's knowledge no building on the Property contains or has ever contained insulation that contains urea formaldehyde. This warranty shall survive and not merge on the completion of this transaction, and if the building is part of a multiple unit building, this warranty shall only apply to that part of the building which is subject of this transaction.
22. **CONSUMER REPORTS:** The Buyer is hereby notified that a consumer report containing credit and/or personal information may be referred to in connection with this transaction.
23. **AGREEMENT IN WRITING:** If there is conflict or discrepancy between any provision written or typed in this Agreement (including any Schedule attached hereto) and any provision in the standard pre-set portion hereof, the added provision shall supersede the standard pre-set provision to the extent of such conflict or discrepancy. This Agreement, including any Schedule attached hereto shall constitute the entire Agreement between Buyer and Seller. There is no representation, warranty, collateral agreement or condition which affects this Agreement other than as expressed herein. This Agreement shall be read with all changes of gender or number required by the context.
24. **SUCCESSORS AND ASSIGNS:** The heirs, executors, administrators, successors and assigns of the undersigned are bound by the terms herein.

SIGNED, SEALED AND DELIVERED in the presence of:

IN WITNESS whereof I have hereunto set my hand and seal:


(Witness)


(Buyer) Name: _____
Title: **PRESIDENT**

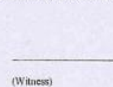
● DATE: **May 25/2021**
(Seal)


I have authority to bind the corporation

I, the Undersigned Seller, agree to the above Offer.

SIGNED, SEALED AND DELIVERED in the presence of:

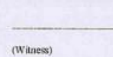
IN WITNESS whereof I have hereunto set my hand and seal:


(Witness)


(Seller) Name: Wendy Cooke
Title: City Clerk

● DATE: **May 25, 2021**
(Seal)

I have authority to bind the corporation

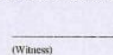

(Witness)

(Seller) Name: _____
Title: _____

● DATE: _____
(Seal)

I have authority to bind the corporation

SPOUSAL CONSENT: The Undersigned Spouse of the Seller hereby consents to the disposition evidenced herein pursuant to the provisions of the Family Law Act, R.S.O. 1990, and hereby agrees with the Buyer that he/she will execute all necessary or incidental documents to give full force and effect to the sale evidenced herein.

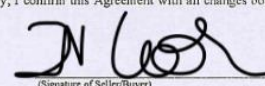

(Witness)

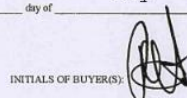
(Spouse)

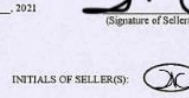
● DATE: _____
(Seal)

CONFIRMATION OF ACCEPTANCE: Notwithstanding anything contained herein to the contrary, I confirm this Agreement with all changes both typed and written was finally executed by all parties at:

10:00am this **28th** day of **May**, 2021
(Time)


(Signature of Seller/Buyer)

INITIALS OF BUYER(S): 

INITIALS OF SELLER(S): 

APPENDIX "B" cont'd

Agreement of Purchase & Sale

SCHEDULE "A" TO THE
AGREEMENT OF PURCHASE AND SALE
(FOR USE IN THE PROVINCE OF ONTARIO)

This Schedule is attached to and forms part of the Agreement of Purchase and Sale between:

BUYER, Hillcorp Investment & Development Inc., and

SELLER, The Corporation of the City of Barrie

For the purchase and sale of Part of PIN 58815-0108(LT), to be further described on a reference plan to be deposited in the Simcoe County Land Registry Office prior to closing as represented in Schedule "B"

25. This Agreement has been executed by the City Clerk pursuant to Council motion 21-G-055 and is conditional for a period of 120 DAYS following acceptance upon the ratification or approval of this agreement by the Council of The Corporation of the City of Barrie. Unless the Seller gives notice in writing delivered to the Buyer that this condition has been fulfilled this Agreement shall become null and void and the deposit shall be returned to the Buyer forthwith in full without deduction.
26. The Buyer shall, prior to closing, acquire a reference plan deposited in the Simcoe County Land Registry Office describing the boundaries of the Property as represented in schedule "B" to the satisfaction of the Seller.
27. The area of the Property is estimated to be 3,090 ft² as outlined in Schedule "B". Should the deposited reference plan legally describing the Property indicate an area different than 3,090 ft², the purchase price shall be amended to reflect a value of \$55/ft².
28. The Buyer agrees to pay the Seller's reasonable costs associated with this transaction which include legal and advertising fees.
29. The Buyer and Seller may extend or reduce the conditional periods by mutual agreement so long as the extension or reduction is agreed to in writing and in advance of the conditional period expiring.
30. This transaction shall be closed on a day as agreed to by the Buyer and the Seller acting reasonably (the "Completion Date"), provided that the Completion Date shall be no later than the 60th day following the removal of all conditions contained in this Agreement of Purchase and Sale.
31. The Buyer acknowledges that the sale of the Property or acceptance of this Agreement does not guarantee that a rezoning or official plan amendment will be granted by the municipality if pursued by the Buyer. The Buyer acknowledges that any attempt at an Official Plan or Zoning By-law amendment or development application is done so at the Buyer's sole risk and expense.
32. The Seller makes no representation or warranty concerning the soil and/or environmental condition of the Property. The Buyer is purchasing the Property on an "as is where is" basis.
33. Upon notification to the Seller, the Buyer and its representatives shall be entitled to enter upon the Property at any time prior to closing in order to inspect same, check elevations, conduct soil tests, prepare surveys, conduct environmental investigations and for any other purpose necessary or incidental for the Buyer to proceed with its development plans, at its own expense and risk, provided that in so doing, no damage is done to the Property or any infrastructure contained within it and the Property is restored to a condition satisfactory to the Seller.
34. The parties hereto consent and agree to the use of electronic signature pursuant to the Electronic Commerce Act 2000, S.O. 2000, c17 as amended from time to time with respect to this Agreement and any other documents respecting this transaction.

INITIALS OF BUYER(S):



INITIALS OF SELLER(S):



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APPENDIX "B" cont'd

Agreement of Purchase & Sale

**SCHEDULE "B" TO THE
AGREEMENT OF PURCHASE AND SALE
(FOR USE IN THE PROVINCE OF ONTARIO)**

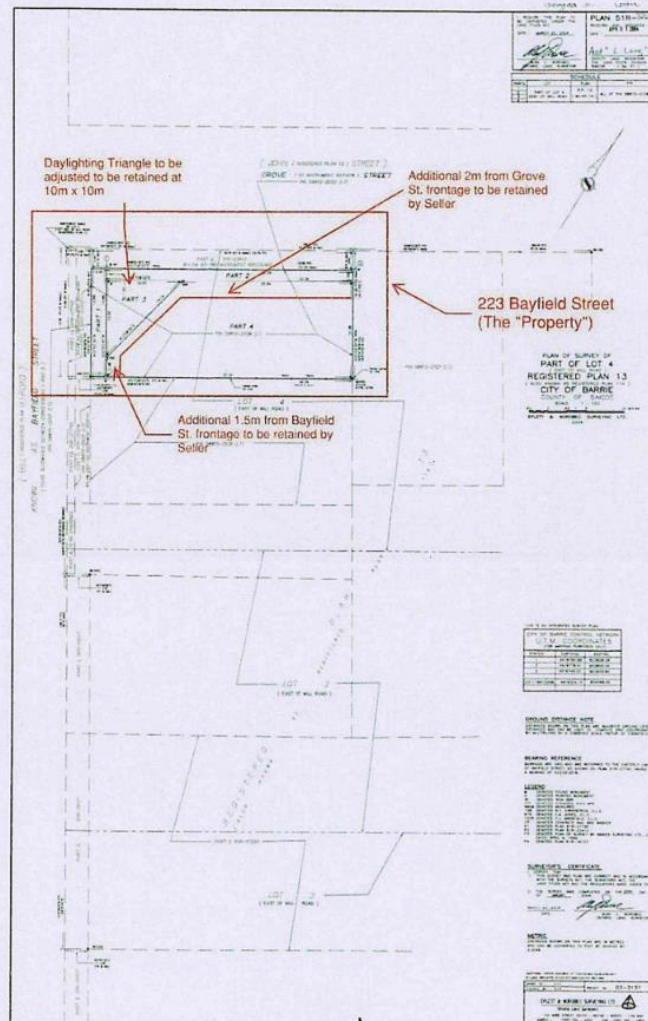
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For the purchase and sale of Part of PIN 58815-0108(LT), to be further described on a reference plan to be deposited in the Simcoe County Land Registry Office prior to closing as represented in Schedule "B"

The Property



INITIALS OF BUYER(S):



INITIALS OF SELLER(S):

